

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18339
[Redacted])	
Petitioner.)	DECISION
)	
)	

On September 16, 2004, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted](Petitioner), asserting income tax, penalty, and interest in the amount of \$ 9,256 for the 1996 through 2002 taxable years. The Notice advised the Petitioner that, if he disagreed with the deficiency determined by the Bureau, he could petition the Tax Commission for a redetermination.

The Petitioner filed a “Non-negotiable Notice of Acceptance” on September 23, 2004, which the Commission treated as a petition for redetermination. In letters dated October 26, 2004, and December 10, 2004, the Commission notified the Petitioner that he could meet with a Commissioner or a designee in an informal conference to discuss the deficiency determined by the Bureau, or, in the alternative, submit additional information to show why the deficiency should be redetermined. The Petitioner did not respond to these letters and did not submit any additional information for the Tax Commission to consider.

This decision is based on the information contained in the Commission’s files. The Commission has reviewed the files, is advised of their contents, and now issues this decision. For the reasons set forth below, the Commission affirms the deficiency determined by the Bureau with interest updated through March 31, 2005.

This is a nonfiler case. The Petitioner did not file an Idaho income tax return for the 1996 through 2002 taxable years. Based on information obtained by the Tax Commission's Enforcement Specialist, it appeared the taxpayer, who lives in [Redacted], Idaho, did in fact have an Idaho income tax filing requirement for the taxable years at issue. Information received [Redacted] shows the Petitioner received approximately the following income:

1996	\$23,105
1997	\$23,408
1998	\$23,639
1999	\$23,759
2000	\$14,288
2001	\$14,288
2002	\$14,288

Based on the [Redacted] information, the Tax Discovery Bureau prepared provisional returns for the Petitioner. The Bureau provided the Petitioner with personal deductions, exemptions, and grocery credits. Once completed, the provisional returns showed a tax deficiency existed for each of the years at issue. The Bureau then issued a Notice of Deficiency Determination which included a description of the information relied upon, a copy of the provisional returns, a document showing the calculation of interest, and an explanation of the Petitioner's right to request a redetermination of the deficiency.

The Petitioner responded to the Notice of Deficiency Determination by sending a "Non-negotiable Notice of Acceptance." There was no explanation attached to this document, and the Tax Commission was unable to discern its purpose. However, the Notice was treated as a timely protest of the Notice of Deficiency Determination.

Persons who are required to file an Idaho individual income tax return must pay Idaho income tax on their taxable income at the rate set forth in Idaho Code § 63-3024. In the event a person fails to file a tax return or to pay the proper amount of individual income tax, Idaho law

specifically provides the Commission with the authority to issue a Notice of Deficiency Determination.

Taxpayers have not presented any information to dispute the factual basis of the deficiency determination. It is well settled in Idaho that a Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be correct. *Albertson's Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814 (1984); *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. *Id.* The Petitioner has failed to show that the provisional returns prepared by the Tax Commission were incorrect. Therefore, based on the information available, the Tax Commission finds the provisional returns to be a fair representation of the Petitioner's taxable income for the taxable years in question and that the amounts shown due on the Notice of Deficiency Determination are true and correct.

WHEREFORE, the Notice of Deficiency Determination dated September 16, 2004, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Petitioner pay the following taxes, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$ 1,164	\$291	\$662	\$ 2,117
1997	1,173	293	565	2,031
1998	1,179	295	477	1,951
1999	1,180	295	391	1,866
2000	366	92	92	550
2001	317	79	55	451
2002	295	74	33	<u>402</u>
TOTAL DUE				<u>\$ 9,368</u>

Interest is calculated through March 31, 2005, and will continue to accrue until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Petitioner's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt